

REMARKS

In response to the Office Action dated September 1, 2004, please amend the subject application as indicated and re-examine and reconsider the application in view of the amendments and remarks provided.

Claims 1-20 were previously pending in this application, but claims 6-11 were previously withdrawn. Claims 1-5 and 12-20 are presently pending and each of claims 1-5 and 12-20 have been rejected. The specification and abstract are being amended presently as are claims 1, 5, and 12. Applicants respectfully request allowance of each of pending claims 1-5 and 12-20.

I. Amendment to the Specification

In paragraph 2 of the subject Office Action, the specification was apparently objected to. Pursuant to the suggestions made in this paragraph, paragraphs 18 and 25 of the specification were amended to reflect the suggested changes. Therefore the objection to this specification should be withdrawn.

Furthermore, paragraph 28 of the specification has been amended to explicitly recite features that were inherent in the originally filed specification and clearly illustrated in the original drawings, for example in FIG. 4e. No new matter has been added.

II. Objection to the Abstract

In paragraph 1 of the subject Office Action, the abstract was objected to because "legal phraseology such as "comprise" is used". The abstract has been corrected and now complies with the requirements of MPEP §608-01(b). Therefore the objection to the abstract should be withdrawn.

III. Claim Rejections Under 35 USC §112

In the Office Action, specifically in paragraph 4, claims 1-5 and 12-20 were rejected under 35 USC §112, second paragraph, as being indefinite. Each of claims 1, 5 and 12 have been amended consistent with the Examiner's suggestions and now comply with the requirements of 35 USC §112. Therefore, the rejection of claims 1, 5 and 12 under 35 USC §112, second paragraph, should be withdrawn. Claims 1 and 12 are independent claims with claims 2-5 depending from claim 1 and claims 13-20 depending from claim 12. Neither of claims 2-4 or 13-20 were rejected with particularity. Since claims 2-5 and 13-20 now depend from independent claims that comply with the requirements of 35 USC §112, second paragraph, claims 2-5 and 13-20 also comply with the requirements of 35 USC §112, second paragraph and therefore the rejection of claims 1-5 and 12-20 under 35 USC §112, second paragraph, should be withdrawn.

IV. Claim Objections

In the subject Office Action, particularly in paragraph 6, claims 1 and 12 were objected to for allegedly containing language not described/supported in the specification.

In particular, claim 1 was objected to with the following language cited as not described/supported in the specification:

“forming a third oxide layer in the first and second openings,
the third oxide layer conforming to a contour thereof;
removing a portion of the third oxide layer and the first oxide
layer to make a third opening; and
depositing control gate material in the third opening”.

Applicants respectfully point out that these features are disclosed in the originally filled specification. In particular, these features appear in the Abstract, as originally filled, and as presently amended. Furthermore, the spacer oxide layer of the fabrication sequence which is illustrated in Figs. 4a-4f and described/supported in corresponding sections of the specification (see remarks with respect to Claim 12, below), is a third oxide. Therefore the objection to claim 1 should be withdrawn.

Also in paragraph 6 of the Office action, the following language, which appears in claim 12, was indicated as not being described/supported in the specification:

“forming a spacer oxide layer in the first and second openings, the spacer oxide layer conforming to a contour thereof;

removing a portion of the spacer oxide layer and the coupling oxide layer to make a third opening; and

depositing a control gate material through the third opening”.

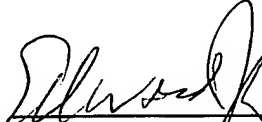
These features are described in the originally-filed specification in describing figures 4d – 4f which illustrate these features. Paragraph 28 of the specification has been amended to more explicitly recite these features that were inherent and described in the original filed specification and clearly illustrated in the original and present drawings. Therefore, the objection to claim 12 should also be withdrawn.

CONCLUSION

Based on the foregoing, each of claims 1-5 and 12-20 is in allowable form and the application is in condition for allowance, which action is respectfully and expeditiously requested by applicants.

Respectfully submitted,

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